

**Elementary and Secondary Education Act, as amended,  
Hearing and Complaint Process**

In order to meet requirements in Sec. 9304(a)(3)(C) of No Child Left Behind Act of 2001 concerning complaint procedures, the SEA has developed the following procedures for complaint resolution.

**HEARING PROCEDURES for LEA to SEA**

**A. Grounds for Hearing**

Any recipient agency; upon request, shall be granted a hearing by the Department when the agency believes and alleges that the Department has violated applicable state or federal law or regulations in any action affecting the agent in the following:

- 1) Denying, in whole or in part, the recipient agency's Consolidated Federal Programs (CFP) application;
- 2) Failing to provide funds in amounts in accordance with the requirements of applicable laws and regulations;
- 3) Withholding payments, in whole or in part, from an approved CFP program (Titles I, IIA, IID, IV, V); or
- 4) Ordering the repayment of misspent or misapplied federal funds.

**B. Request for a Hearing**

A request for a hearing must be made in writing and filed no later than 30 days following the recipient agency's receipt of notice of action for which relief is sought. A request for a hearing must include the following:

- 1) The specific action by the Department on which a hearing is sought;
- 2) Citation to the sections, paragraphs or pages of the laws and rules allegedly violated by the Department's action; and
- 3) A copy of available, applicable documents supporting the recipient agency's position.

Requests for hearing must be addressed to:

Kerry Garber, Director  
Independent & Federal Programs  
Vermont Department of Education  
120 State Street  
Montpelier, VT 05620-2501

Requests for a hearing must be signed by the superintendent of the recipient agency.

A hearing shall be held by the Commissioner without undue delay. Should the matter in dispute also be an issue before the federal Department of Education or any of its agencies or officers, the Commissioner may postpone action or coordinate action with the federal proceedings in the interest of fairness and efficiency.

### **C. Conduct of Hearing**

All hearings shall be conducted as adjudicatory hearings in accordance with the Vermont's Administrative Procedures Act. A special hearing officer, who may be a Department employee or other qualified person, may be appointed as a representative of the Commissioner.

### **D. Ruling and Notice**

The decision by the Commissioner shall include a statement of reasons and findings of fact and it shall be sent to the complaining recipient agency. The hearing officer shall make findings of fact and recommendations for final determination to the Commissioner.

## **COMPLAINT PROCEDURES**

### **State Involvement in Local Complaint Procedures**

- 1) All complaints seeking investigation and intervention by the Department shall be signed by the individual or organization concerned and shall clearly state which ESEA requirements are alleged to have been violated.
- 2) The Department may convene an informal meeting of the complainant and recipient agency officials to seek resolution of the issues arising from the complaint.
- 3) Where the complaint does not allege or demonstrate violations of applicable law and regulations, the Department may act as a mediator between the complainant and the recipient agency.
- 4) Should the informal meeting fail to resolve the issues contained in the complaint, the Department shall undertake an investigation of the allegations.
- 5) Investigation shall be completed within 60 days of receipt of the complaint.
- 6) At the close of the investigation, the Department's proposed resolution of the complaint shall be mailed to the complainant and the recipient agency, with a statement of findings and proposed corrective actions, if any.
- 7) If corrective action is requested, the recipient agency shall be requested to respond in writing within 30 days, describing the steps it will take to bring the CFP program into compliance with applicable law and regulations.
- 8) Should the corrective action not be undertaken or not achieve compliance, the Department shall take appropriate steps to achieve compliance. Where this may result in the withholding of funds, termination of the program or other similar action, a formal adjudicatory hearing shall be convened.
- 9) The Department shall retain a record of all complaints, findings, and final resolutions.